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VIA ECF

The Honorable I. Leo Glasser
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: *Greene, et al. v. Kabbalah Centre International, Incorporated, et al.*,
19-cv-4304 (ILG) (SJB)

Dear Judge Glasser:

We represent Plaintiffs in the above-referenced matter and write in response to Defendants' Notice of Supplemental Authority, Dkt. 72, regarding *Our Lady of Guadalupe School v. Morrissey-Berru*, No. 19-267, 591 U.S. ____ (2020).

Morrissey-Berru further clarified the fact-intensive nature of the "ministerial exception" to laws governing the employment relationship between a "religious institution and certain key employees." 591 U.S. ___, ___ (slip op. at 2). The Supreme Court held that even "religious institutions [do not] enjoy a general immunity from secular laws." *Id.* (slip op. at 10). Courts "are bound to stay out of employment disputes" only when, after a fact-intensive inquiry, a court determines a dispute to "involv[e] [employees] holding certain important positions with churches and other religious institutions." *Id.* (slip op. at 10-11).

It was undisputed that the schools in *Morrissey-Berru* were religious. In contrast, Defendants here adamantly insisted that the Centre was not a religious institution. *See* Am. Compl. ¶ 45, Dkt. 44. Further, Plaintiffs' roles were not ministerial. Unlike the teacher plaintiffs in *Morrissey-Berru*, who "both performed vital religious duties," 591 U.S. ___, __ (slip op. at 21), Plaintiffs here performed janitorial, clerical, and administrative functions. *See, e.g.*, Am. Compl. ¶¶ 48-50. The chevre were trained for work at the Centre by learning, for example, "(i) how to run a kitchen, (ii) how to order Centre supplies, (iii) how to decorate, including using flowers and candles to make rooms feel more inviting, (iv) how to use the Centre's calendaring system, (v) setting up cleaning schedules, (vi) building alarm codes, (vii) how to manage conflict among employees, and (viii) how to ensure that classes were recorded." *Id.* ¶ 48. The chevre also worked as personal servants for the Bergs, bringing them food and walking their dogs. *See, e.g., id.* ¶¶ 72-74.

Taking such facts as true, the ministerial exception cannot plausibly apply here. The determination of whether an institution is a "church" and whether an individual is a "minister"

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requires a fact-intensive inquiry in which a court must “take all relevant circumstances into account and [] determine whether each particular position implicate[s] the fundamental purpose of the [ministerial] exception.” 591 U.S. ___, ___ (slip op. at 22). Such an evidence-based inquiry is both impossible and inappropriate on a motion to dismiss.¹

Respectfully,

/s/ Kathryn Lee Boyd

Kathryn Lee Boyd

Shira Lauren Feldman

HECHT PARTNERS LLP

/s/ Melinda R. Coolidge

Melinda R. Coolidge (*pro hac vice* motion forthcoming)

HAUSFELD LLP

cc: Counsel for All Defendants (via ECF)

¹ The district court decisions in *Morrissey-Berru* were both made at summary judgment after development of “abundant record evidence.” See 591 U.S. ___, ___ (slip op. at 6, 9, 21).